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IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT, and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

APPENDIX TO BRIEF FOR THE PETITIONERS

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A. STATUTES

1. Count one of the indictment is based on 18 U. S. C. 371 which provides:

> "If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, . . . in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years, or both."

This statute is the same as Section 37 of the Criminal Code, 18 U. S. C. (1946 ed.) 88, in effect at the time the alleged offenses were committed.

2. Count two of the indictment is based on 18 U. S. C. 1015(a) which provides:

> "Whoever knowingly makes any false statement under oath, in any case, proceeding, or matter relating to; or under, or by virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens; * * *
>
> * * * * *
>
> Shall be fined not more than $5,000 or imprisoned not more than five years; or both."

Section 1015(a) of Title 18 (1948 ed.) repealed and superseded Section 346 (a)(1) of the Nationality Act of 1940, 8 U. S. C. (1946 ed.) 746 (a)(1) which provided:

> "(a) It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not—

(1) Knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding, or matter relating to, or under, or by virute of any law of the United States relating to naturalization or citizenship.'

3. Count three of the indictment is based on 8 U. S. C. (1946 ed.) 746 (a)(5) which provided:

"(a) It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not—

(5) To encourage, aid, advise, or assist any person not entitled thereto to obtain, accept, or receive any * * * certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or of citizenship—

a. Knowing the same to have been procured by fraud; or

b. Knowing the same to have been procured by the use or means of any false name or false statement given or made with intent to procure the issuance of such * * * certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or citizenship * * *

* * * * *

(d) Any person violating any provision of subsection (a) of this section shall be fined not more than $5,000, or imprisoned not more than five years, or both."

4. Section (g) of 8 U. S. C. (1946 ed.) 746 in effect at the time the alleged offenses were committed provided that:

"(g) No person shall be prosecuted, tried, or punished for any crime arising under the provisions of this Chapter unless the indictment is found or the information is filed within five years next after the commission of such crime."

On September 1, 1948, prior to the return of the indictment on May 25, 1949, the 1948 revision of Title 18, U. S. C., became effective. Section 21 of the Act revising Title 18 (June 25, 1948, 62 Stat. 683) provides:

> "The sections or parts thereof of the Revised Statutes or Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.

Among the sections so repealed were 8 U. S. C. 746(a)(1), 746(a)(5) and 746(g), *supra*.

5. 18 U. S. C. 3282 provides:

> "Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed."

6. 18 U. S. C. 3287 provides:

> "When the United States is at war the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, or (2) committed in

connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States, or (3) committed in connection with the negotiation, procurement, award, performance, payment for, interim financing, cancelation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency, shall be suspended until three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress.

Definitions of terms in section 103 of Title 41 shall apply to similar terms used in this section."[1]

The Wartime Suspension of Limitation Act adopted language similar to that contained in a proviso added to the general three-year statute of limitations, R. S. 1044, by the Act of November 17, 1921, C. 124, 42 Stat. 220, which provided as follows:

---

[1]This section appeared in substantially the same form at 18 U. S. C. 590 (a) before the 1948 revision. The present Wartime Suspension Act as originally passed in 1942, 56 Stat. 747, read as follows:

"That the running of any existing statute of limitations applicable to the offense, involving the defrauding or attempts to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, and now indictable under any existing statutes, shall be suspended until June 30, 1945, or until such earlier time as the Congress by concurrent resolution, or the President, may designate."

This Act was amended by the Contract Settlement Act of 1944, 58 Stat. 649, 667 and the Surplus Property Act of 1944, 58 Stat. 765, 781, which eliminated the phrase "now indictable under any existing statutes", added the clauses now numbered (2) and (3) of 18 U. S. C. 3287, and changed the suspension date from June 30, 1945, to three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress.

No person shall be prosecuted, tried, or punished for any offense, not capital, except as provided in section 1046 [crimes under revenue laws or slave trade laws], unless the indictment is found, or the information is instituted, within three years next after such offense shall have been committed: *Provided, however*, That in offenses involving the defrauding or attempts to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, and now indictable under any existing statutes, the period of limitations shall be six years. This Act shall apply to acts, offenses, or transactions where the existing statute of limitations has not yet fully run, but this proviso shall not apply to acts, offenses, or transactions which are already barred by the provisions of existing laws.[2]

7. Section 1108 of the Revenue Act of 1932, 47 Stat. 169, 288 amended the Revenue Act of 1926 and provided:

> "That no person shall be prosecuted, tried, or punished, for any of the various offenses arising under the internal revenue laws of the United States unless the indictment is found or the information instituted within three years next after the commission of the offense, except that the period of limitation shall be six years—
>
> (1) for offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner,
>
> (2) for the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof, and

[2]The proviso was eliminated from the section by the Act of December 27, 1927, c. 6, 45 Stat. 51. The Section now appears, with slight changes in phraseology, as 18 U. S. C. 3282.

(3) for the offense of willfully aiding or assisting in, or procuring, counseling, or advising, the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document).

For offenses arising under Section 37 of the Criminal Code, where the object of the conspiracy is to attempt in any manner to evade or defeat any tax or the payment thereof, the period of limitation shall also be six years. . . .

Section 1110 of the Revenue Act of 1926, 44 Stat. 9, 114 provided:

"That no person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws of the United States unless the indictment is found or the information instituted within three years next after the commission of the offense: Provided, that for offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, the period of limitation shall be six years, but this proviso shall not apply to acts, offenses, or transactions which were barred by law at the time of the enactment of the Revenue Act of 1924. . . .

8. The relevant provisions of 8 U. S. C. 738(e) upon which the revocation of petitioner's citizenship was based are:

"When a person shall be convicted under this chapter of knowingly procuring naturalization in

violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is hereby conferred to the courts having jurisdiction of the trial of such offense to make such adjudication."

9. The relevant provisions of the Nationality Code, 8 U. S. C. 705, at the time Bridges was admitted to naturalization in 1945 were:

> "No person shall hereafter be naturalized as a citizen of the United States—
>
> (a) Who advises, advocates, or teaches, or who is a member of or affiliated with any organization, association, society, or group that advises, advocates, or teaches opposition to all organized government; or
>
> (b) Who believes in, advises, advocates, or teaches, or who is a member of or affiliated with any organization, association, society, or group that believes in, advises, advocates, or teaches—
>
> (1) the overthrow by force or violence of the Government of the United States or of all forms of law; or
>
> * * * * *
>
> (c) Who writes, publishes, or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or who knowingly has in his possession for the purpose of circulation, distribution, publication, or display any written or printed matter advising, advocating, or teaching

opposition to all organized government, or advising, advocating, or teaching—

(1) the overthrow by force or violence of the Government of the United States or all forms of law; or

* * * * *

(d) Who is a member of or affiliated with any organization, association, society, or group that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subdivision (c).

For the purpose of this section—

(1) the giving, loaning, or promising of money or anything of value to be used for the advising, advocacy or teaching of any doctrine above enumerated shall constitute the advising, advocacy, or teaching of such doctrine; and

(2) the giving, loaning, or promising of money or anything of value to any organization, association, society, or group of the character above described shall continue affiliation therewith; but nothing in this paragraph shall be taken as an exclusive definition of advising, advocacy, teaching or affiliation.

The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the petition for naturalization is, or has

been, found to be within any of the clauses enumerated in this section, notwithstanding that at the time petition is filed he may not be included in such classes."

10. The relevant provisions of the Nationality Code in force at the time Bridges applied for naturalization in 1945, after providing for a declaration of intention (8 U. S. C. 731) and a petition for naturalization (8 U. S. C. 732) were:

8 U. S. C. 733. Hearing of petitions; preliminary hearings

(a) The Commissioner or a Deputy Commissioner shall designate members of the Service to conduct preliminary hearings upon petitions for naturalization to any naturalization court and to make findings and recommendations thereon to such court. For such purposes any such designated examiner is hereby authorized to take testimony concerning any matter touching or in any way affecting the admissibility of any petitioner for naturalization, to subpoena witnesses, and to administer oaths, including the oath of the petitioner to the petitioner for naturalization and the oath of petitioner's witnesses.

(b) The findings of any such designated examiner upon any such preliminary hearing shall be submitted to the court at the final hearing upon the petition with a recommendation that the petition be granted, or denied, or continued, with the reasons therefor. Such findings and recommendations shall be accompanied by duplicate lists containing the names of the petitioners, classified according to the character of the recommendations, and signed by the designated exam-

iner. The judge to whom such findings and recommendations are submitted shall, if he approve such recommendations, enter a written order with such exceptions as the judge may deem proper, by subscribing his name to each such list when corrected to conform to his conclusions upon such recommendations. One of such lists shall thereafter be filed permanently of record in such court and the duplicate list shall be sent by the clerk of such court to the Commissioner.

8 U. S. C. 734. Same; final hearings

(a) Every final hearing upon a petition for naturalization shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the applicant; and, except as provided in subsection (b) of this section, the witnesses shall be examined under oath before the court and in the presence of the court.

(b) The requirement of subsection (a) of this section for the examination of the petitioner and witnesses under oath before the court and in the presence of the court shall not apply in any case where a designated examiner has conducted the preliminary hearing authorized by subsection (a) of section 733; except that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner and the witnesses under oath before the court in the presence of the court.

(c) Except as otherwise specifically provided in this chapter, no final hearing shall be held on

any petition for naturalization nor shall any person be naturalized nor shall any certificate of naturalization be issued by any court within thirty days after the filing of the petition for naturalization, nor within sixty days preceding the holding of any general election within the territorial jurisdiction of the naturalization court.

(d) The United States shall have the right to appear before any court in any naturalization proceedings for the purpose of cross-examining the petitioner and the witnesses produced in support of the petition concerning any matter touching or in any way affecting the petitioner's right to admission to citizenship, and shall have the right to call witnesses, produce evidence, and be heard in opposition to the granting of any petition in naturalization proceedings."

B. HOUSE AND SENATE REPORTS AND HEARINGS

1. The Wartime Suspension Act of 1942 was known in the 77th Congress, 2d Session as H. R. 6484 and was the subject of House of Representatives Report No. 2051 and Senate Report No. 1544. Both of these reports are here reproduced in toto:[3]

[3]H. R. 8298, which became 42 Stat. 220, the bill amending Section 1044 of the Revised Statutes in 1921, was the subject of House of Representatives Report No. 365, 67th Congress, 1st Session. Most of this report is included in the reports on the 1942 Act, the omitted portion being a legal opinion on the right of Congress to extend the statute of limitations.

House of Representatives Report No. 2051
77th Congress, 2d Session

Suspending Statute Of Limitations For Frauds Against The United States

Mr. McLaughlin, from the Committee on the Judiciary, submitted the following

REPORT

(To accompany H. R. 6484)

The Committtee on the Judiciary, to whom was referred the bill (H. R. 6484) to suspend during the present war the running of statutes of limitations applicable to certain offenses, after careful consideration, report the bill favorably to the House with the recommendation that it do pass.

The purpose of the proposed legislation is to suspend any existing statute of limitations applicable to offenses involving the defrauding or attempts to defraud the United States or any agency thereof, for the period of the present war. Contracting for the United States is done through its various agencies, including the departments and independent establishments and Government-owned and Government-controlled corporations, and frauds against all of these agencies are intended to be embraced by the bill.

During the World War many frauds committed against the Government were not discovered until the 3-year statute of limitations had almost expired, and as stated in the committee report hereinafter referred to, many of the alleged offenses were barred from prosecution. The general criminal statute of limitations (Rev. Stats., sec. 1044) was amended on November 17, 1921, extending the period to 6 years in respect to offenses

involving frauds against the United States (42 Stat. 220, U. S. C., title 18, sec. 582). This provision was repealed by the act of December 27, 1927 (45 Stat. 51).

In connection with the World War legislation of this character the committee report (H. Rept. 365, 67th Cong.) stated the following:

> The Department of Justice has been engaged in the investigation and is now engaged in the investigation of various alleged offenses, consisting largely of frauds against the Government which are claimed to have occurred during the war with Germany and since its conclusion. Many of these alleged offenses grew out of the contractual relation of the Government with various persons and corporations engaged in the furnishing of military and naval supplies of various kinds. Many of these transactions require the most minute investigation in order to ascertain the exact facts, and in every case a considerable period must elapse before such facts may be gathered from the files and other sources that the Department may know whether prosecutions are justified or not. In many cases months, and perhaps considerable longer periods, will be required for such investigations.
>
> Under the existing statute of limitations, above quoted, many of these alleged crimes are already barred, and in all such cases under the law no prosecutions can be had if any might be thought advisable. * * *

During normal times the present 3-year statute of limitations may afford the Department of Justice sufficient time to investigate, discover, and gather evidence to prosecute frauds against the Government. The United States, however, is engaged in a gigantic war program. Huge sums of money are being expended for materials and equipment in order to carry on the war.

successfully. Although steps have been taken to prevent and to prosecute frauds against the Government, it is recognized that in the varied dealings opportunities will no doubt be presented for unscrupulous persons to defraud the Government or some agency. These frauds may be difficult to discover as is often true of this type of offense and many of them may not come to light for some time to come. The law-enforcement branch of the Government is also busily engaged in its many duties, including the enforcement of the espionage, sabotage, and other laws.

Your committee is of the opinion that action should be taken at this time to extend the limitations statute so that frauds may be discovered and punished even after the termination of the present conflict, and to insure that the limitations statute will not operate, under the stress of present-day events, for the protection of those who would defraud or attempt to defraud the United States.

The proposed measure has been cleared with the Legislative Committee of the Department of Justice and with the Bureau of the Budget.

Calendar No. 1593

Senate Report No. 1544, 77th Congress, 2d Session

SUSPENDING DURING THE PRESENT WAR THE RUNNING OF THE STATUTE OF LIMITATIONS APPLICABLE TO CERTAIN OFFENSES.

July 13, 1942.—Ordered to be printed.

Mr. Burton, from the Committee on the Judiciary, submitted the following

REPORT

(To accompany H. R. 6484)

The Committee on the Judiciary, to whom was referred the bill (H. R. 6484) to suspend during the present war the running of the statutes of limitations applicable to certain offenses, having considered the same, report the bill favorably to the Senate, with an amendment, with the recommendation that the bill, as amended, do pass. The amendment follows:

Page 1 line 7, strike out all after the word "suspended", and in line 8, strike out the following: "of the present war and for six months thereafter.", and insert in lieu thereof, "until June 30, 1945, or until such earlier time as the Congress by concurrent resolution, or the President, may designate."

The purpose of the proposed legislation is to suspend any existing statutes of limitations applicable to offenses involving the defrauding or attempts to defraud the United States or any agency thereof, for the period of the present war. Contracting for the United States is done through its various agencies, including the departments and independent establishments and Government-owned and Government-controlled corporations, and frauds against all of these agencies are intended to be embraced by the bill.

During the World War many frauds committed against the Government were not discovered until the 3-year statute of limitations had almost expired, and as stated in the committee report hereinafter referred to, many of the alleged offenses were barred from prosecution. The general criminal statute of limitations (Rev. Stats., sec. 1044) was amended on November 17, 1921, extending the period to 6 years in respect to offenses involving frauds against the United States (42 Stat.

220, U. S. C., title 18, sec. 582). This provision was repealed by the act of December 27, 1927 (45 Stat. 51).

In connection with the World War legislation of this character the committee report (H. Rept. 365, 67th Cong.), stated the following:

> The Department of Justice has been engaged in the investigation and is now engaged in the investigation of various alleged offenses, consisting largely of frauds against the Government which are claimed to have occurred during the war with Germany and since its conclusion. Many of these alleged offenses grew out of the contractual relation of the Government with various persons and corporations engaged in the furnishing of military and naval supplies of various kinds. Many of these transactions require the most minute investigation in order to ascertain the exact facts, and in every case a considerable period must elapse before such facts may be gathered from the files and other sources that the Department may know whether prosecutions are justified or not. In many cases months, and perhaps considerably longer periods, will be required for such investigations.
>
> Under the existing statute of limitations, above quoted, many of these alleged crimes are already barred, and in all such cases under the law no prosecutions can be had if any might be thought advisable. * * *.

During normal times the present 3-year statute of limitations may afford the Department of Justice sufficient time to investigate, discover, and gather evidence to prosecute frauds against the Government. The United States, however, is engaged in a gigantic war program. Huge sums of money are being expended for materials and equipment in order to carry on the war successfully. Although steps have been taken to prevent and to prose-

cute frauds against the Government, it is recognized that in the varied dealings opportunities will no doubt be presented for unscrupulous persons to defraud the Government or some agency. These frauds may be difficult to discover as is often true of this type of offense and many of them may not come to light for some time to come. The law-enforcement branch of the Government is also busily engaged in its many duties, including the enforcement of the espionage, sabotage, and other laws.

Your committee is of the opinion that action should be taken at this time to extend the limitations statute so that frauds may be discovered and punished even after the termination of the present conflict, and to insure that the limitations statute will not operate, under stress of the present-day events, for the protection of those who would defraud or attempt to defraud the United States.

The proposed measure has been cleared with the legislative committee of the Department of Justice and with the Bureau of the Budget.

2. Section 1108 of the Revenue Act of 1932, 47 Stat. 169, 288 is discussed at p. 29 of House of Representatives Report No. 1492, 72d Cong., 1st Sess. as follows (at p. 29):

> "Amendment No. 264: Under existing law, the limitation on prosecutions for offenses arising under the internal revenue laws is three years, except that in the case of offenses involving the defrauding or attempting to defraud the United States the period is six years. The Supreme Court has recently held that under existing law the offense of attempting to defeat and evade income taxes does not necessarily involve the defrauding or attempting to defraud the United States, fraud not being an essential ingredient of such offense, and that therefore the 13-year limitation period is applicable instead of the 6-year limitation period. This amendment prescribes

> a 6-year period in the case of the offense of willfully attempting in any manner to evade or defeat any income tax or the payment thereof on the offense of willfully aiding or assisting in the preparation or presentation of false claims, documents, or returns. A 6-year period is also prescribed in the case of conspiracy to attempt in any manner to evade or defeat any tax or the payment thereof. The 6-year period is made to apply as well to these offenses when committed by officers of the United States."

3. H. R. 6484, the Wartime Suspension Act was passed on August 24, 1942 by the 77th Cong., 2d Sess. In the 77th Cong., 1st Sess., H. R. 4916, a bill to suspend the running of the statute of limitations during wartime for any offense punishable under the laws of the United States, was introduced and hearings were held on November 26, 1941 by a subcommittee of the House of Representatives Committee on the Judiciary. The bill did not pass the House of Representatives.

Alexander Holtzoff, a special assistant to the Attorney General, appeared before the subcommittee representing the Department of Justice and recommended that the bill not be passed, since in his opinion, the emergency did not constitute a valid ground for repealing the Statute of Limitations on all crimes. At page 6 of the printed report of the hearings he says:

> ". . . Now, it is a fact that there is one type of crime as to which it might be desirable to extend the statute of limitations, and that is frauds against the Government. I think it would be very desirable if a bill such as was passed in 1921 were enacted at this time, namely, to extend the statute of limitations on crimes involving fraud against the Government, because that is really a matter which might be

affected by the emergency, but I do not feel that we can say properly that the emergency conditions require the suspension of the statute of limitations on all crimes. . . . It would seem reasonable that the statute of limitations should be extended as to frauds against the Government, not indefinitely, but for some period of time. I think some period of time should be set, and if the 1921 act were reenacted, I think it would be a very helpful addition to our statute law. I suggest that the members of the Committee might care to consider amending this bill so as to embody in it the provisions that were contained in the 1920 (misprint, should read 1921) act."

Attached to the Transcript of Hearings is a letter from Attorney General Biddle to Congressman Sumners, Chairman of the Committee on the Judiciary dated November 29, 1941. The letter discusses H. R. 4916 and states as follows (at p. 8 of Hearings):

"I am not aware of any reason why the existence of a state of war or a national emergency requires the extension of the statute of limitations in criminal cases other than those involving frauds against the United States.

It should be observed, however, that during the World War many frauds committed against the Government were not discovered until the 3-year statute of limitations then in effect had almost expired. As a result, the general criminal statute of limitations (Rev. Stats., sec. 1044) was amended on November 17, 1921, by adding thereto a provision enlarging the statute of limitations to a period of 6 years in respect to offenses involving frauds against the United States (42 Stat. 220, U. S. C., title 18, sec. 582). This provision was repealed by the act of December 27, 1927 (45 Stat. 51). If the objective of the measure under consid-

eration is to meet a situation similar to that mentioned above, it is suggested that the bill be amended either by enlarging the statute of limitations to a period of 6 years in respect to offenses involving frauds against the United States, as was done in 1921 by the Act of November 17, 1921, or by providing that in the case of fraud against the United States, the statute of limitations shall not begin to run until the fraud is discovered. A somewhat similar provision is found in the existing law relating to the offense of concealment of assets of a bankrupt estate (U. S. C., title 11, sec. 52(d)).

In view of the foregoing considerations, I am unable to recommend the enactment of the bill in its present form."

4. The bill repealing the 1921 Suspension Act was known in the 70th Congress, 1st Session, as S. 1397 and is the subject of House of Representatives Report No. 16, 70th Cong., 1st Sess. This report stated that the effect of the bill would be to return to the pre-1921 situation and that:

"In 1921 the Attorney General represented that he was desirous of having further time to investigate alleged war frauds, and that owing to the nature of the investigations the statute of limitations might run before it would be possible to obtain indictments, and he therefore requested that the period of the statute of limitations applicable to conspiracy to defraud the Government of the United States should be extended from three years to six years. The Congress complied with the request and the limitation was extended from three to six years as to that particular class of offenses.

The reasons for the above change have ceased to exist; that is, the Department of Justice announced

> some time ago that it did not propose to attempt any further prosecution of offenses of that character, that is to say, offenses giving rise to the statute. Moreover, the whole period of six years has now run against all offenses of that character and there is no longer any occasion for a six-year statute."

5. The law (56 Stat. 781) passed by the 77th Congress, 2nd Session which suspended until June 30, 1945 the running of the statute of limitations with respect to the anti-trust laws is the subject of Senate Report No. 1592, 77th Cong., 2nd Sess. Page 1 of this report states:

> "This committee had previously reported favorably the bill (H. R. 6848), to suspend the running of the statute of limitations applicable to frauds against the United States, which bill has been enacted into law, approved by the President and is Public Law No. 706. This bill (S. 2731) will accomplish the same purpose as to violations of the anti-trust laws, both civil and criminal."

Attached to this report is a letter from Secretaries Stimson, Forrestal and Biddle dated August 18, 1942 to the chairman of the Senate Committee on the Judiciary which stated that they were submitting a bill similar to H. R. 6848, the bill "which suspends the running of the statute of limitations applicable to frauds against the United States." They further stated that S. 2731 is "identical to H. R. 6484, except that, in lieu of providing for suspension of the statute of limitations with respect to frauds against the Government, the proposed bill provides for suspension of the statute of limitations in connection with anti-trust suits—a subject matter not covered by H. R. 6484".[4]

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[4]The House of Representatives report on S. 2731, H. R. Rep. No. 2480, 77th Cong., 2nd Sess., is the same as the Senate report.

6. A bill known as H. R. 9766 was introduced in the 76th Cong., 3d Sess. This bill provided that the Attorney General take into custody and forthwith deport Harry Bridges notwithstanding any provision of law. The House report on this bill is known as House of Representatives Report No. 2200, 76th Cong., 3d Sess. This bill passed the House of Representatives on June 13, 1940.

The bill was amended in Committee by the Senate by striking out the entire bill and substituting for it a bill directing the Attorney General to investigate Mr. Bridges, and if the investigation warranted, move to have Mr. Bridges deported in the manner provided by law. The Senate Committee report is Senate Report No. 2031, 76th Cong., 3d Sess. and is dated August 21, 1940.

The Senate report discusses the prior administrative hearings before Mr. Landis and concludes that these hearings were thorough and exhaustive and one in which the Government fully presented its case. The report points out that the Landis hearings lasted nine weeks, and consisted of 7724 pages of testimony and 274 exhibits; that the Government called 32 witnesses and, at P. 3, "The charge of indifference upon the part of Government employees is fully negatived by the severe castigation to which they were subjected in the findings of the Trial Examiner as to the extra-legal methods used by them in the procurement of evidence."

Attached to the report is a letter dated June 18, 1940 from the then Attorney General, Robert H. Jackson to Senator Russell, Chairman of the Committee on Immigration. This letter was in reply to a letter from Senator Russell requesting the Department of Justice's views on H. R. 9766. The Attorney General called for the bill's rejection

and speaking of previous adjudications concerning Bridges said, at P. 9,

> "The extraordinary character of the bill upon its face is even more impressive viewed against its background. This same alien has been accused, investigated, and tried at great length, and judgment has been rendered that he had not been proved guilty of the charges made against him. By this bill the United States would deny faith and credit to its own duly conducted legal proceedings."

C. CONGRESSIONAL DEBATE

1. The debate on H. R. 6484, the Wartime Suspension Act of 1942, in the 77th Cong., 2d Sess. is found in 88 Cong. Rec. Senator Burton reporting the bill to the Senate says (at 88 Cong. Rec. 6160):

> "Mr. President, before the bill is passed I think I should state briefly that during the last war a number of frauds on the United States were not discovered until the statutes of limitations had about run. Therefore, it became clear that it would be advisable to suspend the running of these statutes of limitations in fraud cases, at least until June 30, 1945, or until such earlier time as the Congress by concurrent resolution, or the President, might designate. It is for that reason that the bill has been passed by the House and is presented to the Senate. I ask that it be passed."

In the House debate, Congresswoman Rankin urged that H. R. 4916, the bill suspending the statute of limitations for all offenses during wartime, which she had introduced a year before, be passed instead of this measure and she

describes the 1921 Act and this act as follows (at 88 Cong. Rec. 4759-4760):

> "No doubt exists as to the power of Congress to enact this legislation. Shortly after the last World War, Congress discovered that because of circumstances very similar to those now in existence, a 3-year statute of limitations permitted numerous offenders to escape punishment. In order to preserve the right to prosecute wartime frauds to the fullest extent possible, Congress at that time extended the period of the statute of limitations on frauds against the United States from 3 to 6 years (42 Stat. 220). . . .
>
> The present bill (H. R. 6484) limits the offenses to those involving the defrauding or attempt to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, and now indictable under any existing statutes.
>
> May I suggest that the all-inclusive statement is more desirable at this time."

2. The Congressional debate on H. R. 8298, the 1921 Suspension Act, in the 67th Congress, 1st Session, is found in 61 Cong. Rec.

(a) House of Representatives, 61 Cong. Rec. 7060-7061.

> "P. 7060—Mr. Graham—This simply extends the limitation as to crimes against the United States for three years, so that from now on the limitation on crimes committed against the United States such as are defined in this act will be six years instead of three. It extends to no other kinds of crime. Those crimes are described in the proviso as 'offenses involving the defrauding or attempts to defraud the United States or any agency thereof, whether by

conspiracy or not, and in any manner, and now indictable under any existing statutes', so that it will be seen that this bill deals with fraud largely.

* * * * * *

P. 7061—Mr. Graham. . . . Many of the frauds which were committed in the closing up of war contracts occurred after the end of the war and may yet be prosecuted by the Department of Justice.

Mr. Tilson. . . . Suppose the Shipping Board, or any other large enterprise of the war, may find there has been a gross offense against the Government, there will be no remedy?

Mr. Graham—It is too late. During the period of the war, we will say, somebody made a fraudulent contract and robbed the Government of millions of dollars. I want to say to the gentleman, frankly, he can not be prosecuted. The statute of limitations will run against them and they are out. There are some few that can be reached by this, and in order to give the Department of Justice a little bit of a show to reach some of them that perhaps could be reached we desire to pass this legislation and give them a chance. . . . "

(b) Senate, 61 Cong. Rec. 7640.

"Mr. LaFollette: Mr. President, I sincerely hope that this bill will pass. . . .

I have been informed . . . that there are more than 2,000 cases connected with the Shipping Board where prosecutions would have been brought if the statute of limitations had not run against those offenses on last Saturday. . . . I repeat that I am informed that there are some 2,000 cases within the Shipping Board's organization where, upon the record, as shown by investigation, the parties were subject to prosecution under the section which this bill proposes to amend, and that the statute of limita-

tions as to those cases expired on Saturday the 11th day of November.

* * * * *

Mr. Nelson . . .

I do not think there are as many cases of this nature as the Senator from Wisconsin has intimated. There may be a few. Most of the frauds will consist of attempts upon the part of men who have contracts pending, and are trying to settle them, to impose upon the Government by fraudulent practices; and I think most of the cases involved are cases that will be within this law if we pass it."

3. The Congressional debate on S. 1397, the bill repealing the 1921 Suspension Act, in the 70th Congress, 1st Session, is found at 69 Cong. Rec.

Senator Walsh introduced the bill in the Senate, and stated (69 Cong. Rec. 473):

". . . It will be recalled that prior to the year 1921 the statute of limitations as to all offenses against the United States not capital in character was three years. At that time the Attorney General represented that he was desirous of having further time to investigate alleged war frauds, that the facts were intricate and involved, and that possibly the statute of limitations might run before it would be possible to obtain indictments. He asked that the period of the statute of limitations applicable to conspiracies to defraud the Government of the United States should be extended from three years to six years. The Congress promptly responded and extended to six years the period of the statute as to that particular class of offenses.

It is not purposed by the department, as announced some time ago, to attempt any further

prosecutions of offenses of that character; that is to say, offenses giving rise to the statute. Moreover, the whole period of six years has now run against all offenses of that character and there is no longer any occasion for a six-year statute."

In the House the bill was introduced by Mr. LaGuardia. In describing the bill he stated (69 Cong. Rec. 842): ". . . That amendment (the 1921 Suspension Act) extended the time of the period of limitation and was intended to apply only to war frauds from three years to six years". . . . "The period of six years with reference to war cases has now passed. The war frauds are cleaned up by this time" . . . "If anyone has defrauded the Government in cases arising out of the war, if he has not already been indicted, there is not much chance of indicting him now".

In answer to an objection by Congressman Schafer that the amendment would prevent prosecution of certain persons involved in the Tea Pot Dome case where Mr. Schafer claimed that the conspiracy ran until 1924, and its purpose was to loot alien property, Mr. LaGuardia stated: "I do not believe the alien property cases come within the scope of the 1921 amendment".

D. ADMINISTRATIVE REGULATIONS

1. At the time of *Bridges'* warrant of arrest in the 2nd deportation action on February 12, 1941, the following regulations, among others, of the Immigration and Naturalization Service of the Department of Justice were in force:

Sec. 150.5 *Custody of arrested aliens*—

(a) *Release on bond or personal recognizance.* The amount of bond under which any alien may be

released will be indicated in the warrant of arrest. When the officer in charge is satisfied that a bond in a lessor amount than that stated in the warrant will insure the alien's appearance when wanted, or that the alien may safely be released on his personal recognizance, or paroled to a responsible individual or organization, he is authorized, except as hereinafter provided, to release the alien on bond in an amount less than that set in the warrant but not less than $500, or upon the alien's personal recognizance, or upon parole to a responsible individual or organization, without first securing the approval of the Central Office. . . .[5] (8 Code Fed. Regs. Cum. Supp.)

2. At the time of the decision in *Bridges* v. *Wixon*, June 18, 1945, the regulations listed above were still in force, with minor changes, as well as these other pertinent regulations:

Sec. 150.8 *Reopening hearings; departure in lieu of deportation; suspension of deportation*—(a) *Reopening the hearing.* At any time prior to the forwarding of the record of hearing to the Central Office, the officer in charge of the district may direct that a case be reopened for proper cause; and at any time prior to submission of the record to the Board of Immigration Appeals, the Central Office may direct a reopening

[5] Amended effective April 25, 1944 to read as follows: Sec. 150.5 *Custody of arrested aliens*—(a) *Release on bond or personal recognizance.* An alien arrested in deportation proceedings may, pending final disposition of his case and in the discretion of the officer in charge of the office having custody of the alien, be released under bond, or on his own personal recognizance, or on parole, unless specific instructions to the contrary covering individual aliens or classes of aliens shall have been issued by the Central Office. When release is directed by the officer in charge of the office having custody of the alien under conditions other than those stated in the warrant of arrest, such officer shall make immediate report thereof in writing to the Central Office giving the reasons for the action taken. . . . (8 Code Fed. Regs. 1944 Supp.)

thereof for proper cause. After the record has been submitted to the Board of Immigration Appeals, the case may only be reopened upon direction of the Board of Immigration Appeals. Requests by aliens, or their representatives, for a reopening of a hearing must be in writing and set forth the grounds for the application. . . . (8 Code Fed. Regs. Cum. Supp.)

Sec. 90.3 *Board of Immigration Appeals; powers.* (a) Subject to the provisions of Sec. 90.12, the Board of Immigration Appeals in behalf of the Attorney General shall have authority:

> (1) To issue orders of deportation after proceedings in accordance with law and regulations; to order the cancellation of warrants of arrest issued in such proceedings; and in connection therewith to exercise such of the discretion conferred upon the Attorney General by law as is appropriate to the disposition of deportation proceedings; . . . (8 Code Fed. Regs. Cum. Supp.)

Sec. 90.12 *Board of Immigration Appeals; reference of cases to the Attorney General.* In any case in which a dissent has been recorded; in any case in which the Board shall certify that a question of difficulty is involved; in any case in which the Board orders the suspension of deportation pursuant to the provisions of section 19(c) of the Immigration Act of 1917, as amended, or in any case in which the Attorney General so directs, the Board of Immigration Appeals shall refer the case to the Attorney General for review of the Board's decision. . . . (8 Code Fed. Regs. Cum. Supp.)

3. On August 1, 1945, prior to Bridges' naturalization, Sections 90.3 and 90.12 of the Regulations were amended to read as follows (8 Code Fed. Regs. 1945 Supp.):

Sec. 90.3 *Board of Immigration Appeals; powers.* (a) Subject to the provisions of sec. 90.12, the Board of Immigration Appeals in behalf of the Attorney General shall have authority to consider and determine cases involving:

* * * * *

(2) Deportation proceedings, if the Commissioner has recommended deportation.

* * * * *

(b) If the Board's decision in any of the foregoing proceedings is contrary to the decision or recommendation of the Commissioner, on the Commissioner's request the case shall be certified to the Attorney General by the Board of Immigration Appeals for final decision. The Commissioner may in any case arising in exclusion, deportation or administrative fine proceedings, which in his opinion presents a problem of difficulty or policy, submit such cases to the Board of Immigration Appeals for decision and if review by the Attorney General in any such case is desired by the Commissioner, such case shall be submitted to the Board for consideration and certification to the Attorney General.

(c) The Board shall have jurisdiction to consider and decide any case or matter arising under the immigration and naturalization laws which the Attorney General specifically refers to the Board.

(d) In connection with the authority granted to the Board under this Section it shall be empowered to exercise such discretion and power conferred upon the Attorney General by law as is appropriate for the complete disposition of the proceeding, including but not limited to the power to grant permission to re-apply for admission after arrest and deportation or exclusion and deportation.

Sec. 90.12—*Board of Immigration Appeals; reference of cases to Attorney-General.* In any case in which a dissent has been recorded; in any case in which the Board shall certify that a question of difficulty is involved, or in any case in which the Attorney General so directs, the Board of Immigration Appeals shall refer the case to the Attorney General for review of the Board's decision. . . .

The other sections, set out above, Sec. 150.4(c), 150.5, and 150.8 remained in force unchanged, except for the change in Sec. 150.5 noted in footnote 5, *supra*.

4. The regulations of the Department of Justice in force during the time Bridges was processing his naturalization petition provided (8 Code Fed. Regs. Cum. Supp.):

Sec. 352.1 *Attachment to Constitution and disposition toward United States.* No person shall acquire United States citizenship under the provisions of Chapter III of the Nationality Act of 1940 (except a person subject to the provisions of sections 313, 314, 317 (b), 322, or 323 thereof) unless such person shall have proved his attachment to the principles of the Constitution of the United States and his favorable disposition toward the good order and happiness of the United States for such period or periods as may be required in his particular case, and in the manner provided by Part 373.

Sec. 352.2 *Investigation as to attachment and attitude.* The appropriate naturalization officer of the Service, before recommending any petitioner favorably to the court, shall satisfy himself that the petitioner has a fair knowledge of the fundamental principles of the Constitution of the United States, that he is, and has

been during the required period or periods, attached thereto, and that it is his intention to assume the duties and responsibilities of citizenship of the United States. The action of such officer at any hearing upon the petition shall be based upon the testimony of the petitioner and his witnesses; the attitude, behavior, and conduct of the petitioner over the required period or periods; the naturalization officer's examination as prescribed by § 356.3 of this chapter, and his independent investigation, and such other evidence as may be available.

Sec. 352.3 *Favorable attitude toward government of petitioner for naturalization for ten years.* No person (except a person subject to the provisions of section 313, 314, 317 (b), 322, or 323 of the Nationality Act of 1940) may be naturalized who is found to be, or, at any time within the period of ten years immediately preceding the filing of his petition for naturalization, to have been, within any of the classes of persons described in section 305 of said Act. The appropriate naturalization officer of the Service, before recommending any petitioner favorably to the court, shall make a general inquiry to determine whether there is any evidence that the petitioner belongs to any of the classes described in section 305 of the said Act. If there is such evidence, the burden shall be upon the petitioner to refute it and to show that he is qualified for naturalization under the Nationality Act of 1940.

Sec. 370.8 *Preliminary naturalization examinations; facts to be ascertained; manner of conducting and uniformity; limitation.* Wherever practicable, preliminary examinations of applicants for naturalization and their witnesses shall be made in person and under oath. The applicant and each witness shall be interviewed separately and apart from one another. The purpose of such examinations shall be to obtain accurate and material information bearing upon the applicant's admissi-

bility to citizenship and the qualifications of the witnesses. Both the applicant and the witnesses shall be carefully interrogated to determine whether the applicant has complied with the jurisdictional requirements of law; is mentally and morally qualified for citizenship; is attached to the principles of the Constitution of the United States, and is well disposed to the good order and happiness of the United States. If the applicant has been arrested or charged with the violation of any law or ordinance, the facts shall be ascertained, including information as to whether conviction resulted and the nature and extent of any sentence which may have been imposed. Particular attention shall be given to ascertaining the applicant's complete marital history and the whereabouts of his or her spouse, if married, and minor children, if any. Questions to applicants and witnesses shall be repeated in different form and elaborated, if necessary, until the examining officer is satisfied that the person being interrogated fully understands them. The witnesses shall be questioned to develop not only their own credibility and competency but also the extent of their personal knowledge of the applicant's residence, good moral character, attachment to the principles of the Constitution of the United States, and other qualifications for citizenship. Search shall be made of appropriate court and other records and other available sources of information in establishing the qualifications of the applicant and witnesses. The examination shall be limited to inquiry concerning the applicant's residence, good moral character, understanding of and attachment to the fundamental principles of the Constitution of the United States, and his other qualifications to become a naturalized citizen, and shall be uniform throughout the United States.

Sec. 373.1 *Preliminary hearings under section 333 of the Nationality Act of 1940.* (a) Preliminary hearings conducted under section 333 of the Nationality Act

of 1940 shall be open to the public. Wherever possible, a member of the Service other than the person who conducted the preliminary examination, shall serve as designated examiner. Preliminary hearings shall be conducted in person by the designated examiner, or officer, and the petitioner and his witnesses shall be present. The petitioner and witness shall first be duly sworn. The designated examiner shall have before him at the preliminary hearings the record of the preliminary examination in each case. He shall not, however, be limited to the information contained in such record but may use any material evidence of data received from any other source; and he may present and examine other witnesses than those produced by the petitioner.

* * * * *

(c) At the time the designated examiner or officer conducts the preliminary hearing of each petitioner he shall enter on Form N-476 the petition number, petitioner's name, and, upon completion of the examination, fill in the symbols indicating his findings and a brief notation of the reasons for any unfavorable finding. This docket shall be signed by him and shall be made available to the court whenever desired, and after the final hearing shall be filed of record in the field office.

(d) The designated examiner or officer shall prepare in triplicate his findings and recommendations for presentation to the court. . . . (petitions either) granted . . . continued . . . (or) denied. These findings and recommendations shall be signed by the officer in attendance at the final hearing and submitted to the judge of the court at or before the final hearing. After the final hearing has been held, an order of court shall be prepared in triplicate . . . for petitions . . . granted . . . continued . . . (or) denied. The original order of court shall be presented for signature to the judge who presided at the final hearing. . . . (8 Code Fed. Regs. 1944 Supp.)

Sec. 373.7 *Personal representation of Government at court hearings.* Wherever possible, final naturalization hearings shall be attended personally by naturalization examiners or other members of the Service authorized by the Commissioner. Representatives appearing in behalf of the United States may cross-examine the petitioner and the witnesses produced in support of the petition, and may call other witnesses and produce evidence concerning any matter affecting the petitioner's right to naturalization. In cases where it appears to be necessary, the naturalization officer shall have made a stenographic report of the testimony given in any naturalization proceeding.

E. COMPARISON OF THE CHARACTER OF THE GOVERNMENT'S EVIDENCE AND THE TIME TO

First Hearing

Charges: "After he entered the United States he became and now is a member of or affiliated with an organization, association, society or group that believes in, advises, advocates and teaches the overthrow by force and violence of the government of the United States" (named as the Communist Party in government's bill of particulars).

Name of Govt. Witness	Type of Testimony Given*	Years to Which Testimony Relates
Milner	a, c, d, e	1935–6
Leech	a	1936
Sapiro	d, e	1936–7
Humphreys	a	1935–Aug. 1938
Leppold	f	1935–7
Stark	e	1935
Allen	a	1937
Howard	b, e, f	1936–7
Detrich	b, c, d, e, f	1933–6
Engstrom	a	1936–7
Davis	a, d	1935–6
Castor	a	1936
Mrs. Castor	a	1936
Mrs. Davis	a	1934
Marcus	a	1934
Kessler	a	1934
Mickleson	a	1934
Zanazzi	a	1934
Penaat	e	1934
Bridges (called as witness by Gov't)	c	Dec. 1932-1938

*Abbreviations used in these columns are as follows: a—alleged attendance by Bridges at Communist meetings; b—alleged admission by Bridges of Communist membership; c—associations of Bridges with Communists; d—alleged Communistic remarks by Bridges; e—hearsay statements concerning Bridges; f—Opinion evidence of witness.

Second Hearing

Charges: "After entering the United States h
member of or affiliated with an
association, society or group that
advises, advocates or teaches the o
force or violence of the governm
United States" (named as the Comm
in government's opening statements

Name of Govt. Witness	Type of Testimony Given*	Y Tes
Lundeberg	b	1
O'Neil	b, d	1
Barlow	d	1
Lovelace (Mr. & Mrs.)	c, f	1
McCuistion	c	1
Innis	c	1
Rushmore	d	1
Chase	d, e	1
Diner	a	1
Honig		1
Lawrence	a	1
Cannalonga	a	1
St. Clair	a, e	1
Wilmot	a, b, c	1
Thompson	a	1
Kelley	d	1
Bridges (Govt. introduced in evidence excerpts from Bridges' testimony at first proceeding)	c	1

:VIDENCE AND THE TIME TO WHICH IT RELATES IN THE THREE PROCEEDINGS.

Second Hearing

:er entering the United States he has been a
ıber of or affiliated with an organization,
ciation, society or group that believes in,
ses, advocates or teaches the overthrow by
e or violence of the government of the
ted States" (named as the Communist Party
overnment's opening statements).

	Type of Testimony Given*	Years to Which Testimony Relates
	b	1935
	b, d	1937
	d	1935
Mrs.)	c, f	1935
	c	1936
	c	1936
	d	1935
	d, e	1937
	a	1934
	a	1936–7
	a	1934
	a	1936–7
	a, e	1935–6
	a, b, c	Apr. 1938
	a	1934–5
	d	1937
ntroduced rpts from ny at first	c	Dec. 1932–1938

This Proceeding

Charges: ". . . That said defendant, Harry Renton Bridges had in truth and in fact belonged to and been a member of the Communist Party in the United States from the year 1933 up to and including said 17th day of September, 1945".

Name of Govt. Witness	Type of Testimony Given*	Years to Which Testimony Relates
Shoemaker	a, b, c	Oct. 1933–1938
Schrimpf	a, c	1934–1935
Harris	b	1938
Ross	a, c, e	1934–1936
Johnson	a, c	1936, 1938
Hancock	a, c, e	1935
Krolek	a, c	1935–1937
Crouch	a, c, f	1934–1936 June 1938, 1941
Michener	a, c	1940, 1943
Wilson	a, c	1944–1945
Rathborne	a, c	1935–1945

F. EVALUATION OF GOVERNMENT WITNESSES IN THE LANDIS-PERKINS PROCEEDING

1. " . . . what is paraded as truth bears the unmistakable marks of falsehood". (In the Matter of Harry R. Bridges, Findings and Conclusions of the Trial Examiner, United States Printing Office, Washington, 1939, Letter of Transmittal, December 28, 1939).[6]

2. *Milner:*

   "A man who has no regard for an oath." (p. 17)

   "Milner can best be dismissed as a self-confessed liar, a man who has admittedly tried—once successfully—to make falsehood parade as truth". (p. 19)

3. *Leech:*

   "He lied in . . . in important respects". (p. 75)

4. *Sapiro:*

   " . . . truth matters little . . .", "inherent improbability". (p. 86)

5. *Humphreys:*

   " . . . a morass of prevarication". (Ibid., p. 89)
   "[a] tendency toward prevarication [that] was almost pathological." (p. 110)

6. *Engstrom:*

   " . . . left a convincing impression that he was not telling the truth". (p. 110)

"A weak-willed, characterless, individual . . . who in desperation was now pursuing hypocritical tactics". (p. 111)

7. *Allen:*

"sincerity . . . may well be doubted". (p. 96)

8. *Ida Castor:*

"Her testimony is both contradictory and meaningless". " . . . amazing contradictions and impossible situations". (p. 116)

G. EVALUATION OF GOVERNMENT WITNESSES IN THE SEARS-BIDDLE PROCEEDING

1. "*Diner* is not an impressive witness. His story . . . is not convincing". (*In the Matter of Harry Renton Bridges*, Immigration and Naturalization Service, Department of Justice, File No. 55973/217, Memorandum of Decision, September 26, 1941 (United States Government Printing Office, 1941), p. 140)

2. ". . . the testimony of *Caunalonga* is without value". (Ibid., p. 152)

3. *St. Clair:*

"I am not impressed by it (his testimony . . . inherently improbable . . . violent bias". (Ibid., p. 154)

4. *Wilmot:*

"Indefinite . . . self-contradictory". (Ibid., p. 155)

5. "I do not credit the testimony of *McQuiston* and *Innes* . . ." (Ibid., p. 132)

6. "I do not consider the testimony of *Rushmore* as establishing Bridges' membership in or affiliation with the Communist Party". (Ibid., p. 133)

7. "I find that the testimony of *Chase* and *Horn* falls short of establishing . . . Bridges' membership in the Communist Party". (Ibid., p. 137)

8. "The Presiding Inspector rejected the testimony of numerous witnesses presented to show membership. Independent analysis of their testimony convinces us that its rejection was more than justified". (*In re Harry Renton Bridges before the Board of Immigration Appeals in Deportation Proceedings*, January 3, 1942, pp. 5 to 6). Supporting this conclusion was an analysis of the testimony of the various witnesses, which was described, *inter alia*, in these terms: "Patent contradictions and extreme improbabilities", "complete unreliability", "tortuous convolutions", "worthless on its face", "that he lied freely is evident", "valueless", "strong elements of the improbable", "a mental state bordering on ego mania", "neither is

worthy of credence", "another discredited witness". (Ibid.)

H. COMPARISION OF TESTIMONY IN THIS CASE DEALING WITH EVENTS BEFORE AND AFTER 1941.

(a) The court below held that evidence of participation in "Communist meetings" "would fall short of proof of actual Communist Party membership" (199 F. 2d at 836). It also held that evidence of expressions of opinion indicative of sympathy with the Communist point of view "would not in itself suffice to furnish the required proof of Communist Party membership" (199 F. 2d at 837). There is no evidence dealing with events after 1938 which does not fall into one of these two categories.

The only evidence which falls outside these categories was evidence respecting an application for membership claimed to have been made in *1933* (Tr. 835-853), testimony about Communist Party dues payments and activities from *1933 to 1938* (Tr. 873-875, 1236-1237, 2862-2869), testimony about Communist Party membership books in *1935 to 1938* (Tr. 869-871) and an admission claimed to have been made in *1938* (Tr. 1697-1704).[7]

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[7]There was testimony that Bridges was in New York in 1936 at a meeting of the National Committee of the Communist Party, which "if credited" would tend to show Bridges' actual membership in the Communist Party. But the court below said: "Considerable doubt is thrown on this aspect of the case by reason of the fact that it was established, apparently beyond controversy, that at the very time the 1936 convention was being held, Bridges was in Stockton, California, making a speech at a union meeting" (199 F. 2d at 841).

(b) The following is the only testimony dealing with Bridges in the period after September, 1941:

1. There was testimony that in October of 1941 Bridges read a resolution on the floor of a CIO Convention in California "in favor of the Communist policy" of "all-out support for the administration program of aid to the democracies in the war effort" (Government memorandum on certiorari, p. 9).

The Court below said:

> "The danger of attempting to prove any person to be a Communist by evidence of his expression of views which happened to coincide with the program of the Communist Party, is too well understood to require comment here". (199 F. 2d at 838)

2. In November of 1943, Bridges attended what was said to be a Communist meeting during the course of a CIO Convention in Philadelphia, at which it was decided to replace a Communist by a non-Communist, as President of the California State CIO (Tr. 3360-5).

The testifying witness "knew" that the other persons present at this meeting were Communists because "I have at various times attended Party meetings with the individuals mentioned" (Tr. 3355). This was one of the witnesses who testified that non-Communists participated in "Communist Party meetings" (Tr. 3444; see also Tr. 1964-5).

The court below said:

> "The logical fallacy in concluding from this that Bridges must therefore have been a Party member is that it assumes the truth of that which is

sought to be proven. If, in fact, Bridges was not a Party member, his presence at such a meeting would mean no more than that he attended a meeting at which every other person present was a Party member" (199 F. 2d at 836).

3. Bridges attended a meeting "somewhere between 1942 and 1944" (Tr. 3649) with a group of his colleagues in the labor movement, and the Secretary of the Communist Party in California (Tr. 3651).

> "Q. I ask you, Mr. Wilson, was this meeting a labor meeting or a meeting of a group of the Communist Party to discuss a labor problem?
>
> * * * * *
>
> A. It was a group of Communists to discuss the labor problem (Tr. 3651-52).
>
> Q. Can you recall what was said by anyone of the persons who were present, Mr. Wilson?
>
> A. I can not" (Tr. 3650).

The court below recognized that such testimony "would fall short of proof of actual Communist Party membership . . . [and] would not in itself suffice to furnish the required proof of Communist Party membership" (199 F. 2d at 836-37).

4. There is testimony that after 1944 Bridges discussed the activities of what was said to be a Communist committee with Rathborne and Schneiderman (Government's memorandum on certiorari, page 10). Government witness Rathborne testified that Bridges was not a member of this committee (Tr. 5932).

5. There is testimony that, subsequent to September 17, 1945, Bridges, the other petitioners, their union publications, or persons with whom they were associated, expressed views on the Marshall Plan, the Civil War in China, the war in Korea, etc., which were claimed to "parallel" the Communist Party position. Such evidence was rejected by the court below, 199 F. 2d at 837, as not constituting proof of the charge made in the indictment.